

**FILED**

UNITED STATES COURT OF APPEALS

AUG 20 2013

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JOSE GOMEZ, individually and on behalf  
of a class of similarly situated individuals,

Plaintiff - Appellant,

v.

CAMPBELL-EWALD COMPANY,

Defendant - Appellee.

No. 13-55486

D.C. No. 2:10-cv-02007-DMG-  
CW

Central District of California,  
Los Angeles

ORDER

**RECEIVED**

**CLERK, U.S. DISTRICT COURT**

8/20/2013

**CENTRAL DISTRICT OF CALIFORNIA**

**BY: \_\_\_\_\_ DLM DEPUTY**

Before: Peter L. Shaw, Appellate Commissioner.

Appellee's motion to dismiss this appeal for lack of jurisdiction is denied without prejudice to renewing the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (stating that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The opening brief and excerpts of record are due September 30, 2013; the answering brief is due October 30, 2013; and the optional reply brief is due within 14 days after service of the answering brief.

AT/MOATT